

Decision 06-09-007 September 7, 2006

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Pacific Bell
(U 1001 C) for Authority Pursuant to Public
Utilities Code Section 851 to Lease Space and
Transfer Assets to SBC Services, Inc.

Application 99-07-020
(Filed July 13, 1999; amended
October 13, 1999 and
February 3, 2000)

O P I N I O N

This matter was initiated a number of years ago by Pacific Bell Telephone Company (Pacific) for authority to enter into a number of leases and to transfer specified assets to SBC Services, Inc. (SBC). Various protests were filed, prehearing conferences and hearings conducted, and a proposed draft decision issued for comment in February 2004, soliciting party views on whether any changes to the application or the record were appropriate. Various parties filed comments. To date, no decision has been issued in this matter.

The Commission is interested in closing old proceedings that are not otherwise required for some active purpose to remain open. Because of the passage of time and intervening events, including the merger of SBC Communications Inc. and AT&T Corp., an administrative law judge's ruling was issued on June 30, 2006, asking parties for comment as to whether it was appropriate to close this matter or if there was some particular reason to keep it open and active.

Specifically parties were asked the following questions:

1. Is there a need for this proceeding to remain open?

2. If there is perceived to be a need for this matter to remain open, what is the basis for that view? Is there any need for the request to be modified or updated? What role does the commenting party anticipate having?

Pacific was the only party to file comments and concurred that there was no need for this proceeding to remain open. Pacific states that the consolidation of support services that prompted the application took place several years ago. Pacific states that they provided use of the space and assets that were the subject of the application under the terms of a General Order 69-C revocable license while the application remained pending. Pacific indicates that it will continue to make use of a revocable license for any space or assets that were part of the application and are still used by SBC, rather than pursue this Section 851 application further.

Based on these comments and absent any demonstration of need to maintain this as an open docket, it is appropriate to close this proceeding.

Categorization and Need for Hearing

In Resolution ALJ 176-3030, dated July 22, 1999, the Commission preliminarily categorized this proceeding as ratesetting, and preliminarily determined that hearings were not necessary. In the Scoping Memo ruling dated November 5, 1999, it was determined that a hearing would be required and, in fact, a hearing was conducted. This order today changes the preliminary determination to note that a hearing was required.

Comments on Draft Decision

While this decision does not grant the relief originally requested by the applicant, by comments filed in response to the ALJ's ruling the applicant has indicated its present support for the action being taken and there has been no opposition indicated from any other party. Therefore, this is an uncontested

matter which grants the relief currently supported by the applicant.

Accordingly, as provided by Pub. Util. Code § 311(g)(2), we waive the otherwise applicable 30-day comment period for this decision.

Assignment of Proceeding

Michael R. Peevey is the Assigned Commissioner and Glen Walker is the assigned ALJ in this proceeding.

Findings of Fact

1. This matter has been open for many years and inactive for much of that time.
2. Only one party, the applicant, filed comments on whether or not this matter should remain open and indicated its view that this proceeding does not need to remain open.

Conclusion of Law

This matter should be closed.

O R D E R

IT IS ORDERED that:

1. The preliminary determination of this proceeding should be modified to reflect that a hearing was required.
2. Application 99-07-020 is closed.

This order is effective today.

Dated September 7, 2006, at San Francisco, California.

MICHAEL R. PEEVEY
President
GEOFFREY F. BROWN
DIAN M. GRUENEICH
JOHN A. BOHN
RACHELLE B. CHONG

Commissioners